1951 K File No. Criminal Manual II/51 (R)

Legal Dept-

B. BRANCH

Subject:— Rules under Criminal Manual

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File No. Criminal Manual II/51 CR

Gen. 194 e.

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Legal Department

The difficulty expressed by the Police Prosecutors may be brought to the notice of the High Court. The Home Department may move the High Court to amend paragraph 103(7) of the Criminal Manual enabling Police Prosecutors to get copies of judgments free of cost.

2. As regards exemption from payment of court-fee in respect of applications for obtaining certified copies of judgments, it is suggested that not only the Police Prosecutors but Public Prosecutors also should be exempted from such payment. The requisite draft notification is sent herewith. The Home Department will no doubt consult the R.D. and the High Court in the matter before the appended draft is issued. The High Court may also be moved to amend paragraph 103(7) in so far as it provides for payment of court-fee on such applications.

Secretary to Government,

U.R. to H.D. No. , dated the March 1951.

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OFFICE OF THE R.I.A.

The rule that a statute does not bind the Crown unless it is expressly mentioned in it or ~~x~~ that by necessary implication it is excluded is based on the ~~perogative~~ prerogative right specially reserved in favour of the Crown. So far as the Indian Court Fees Act is concerned it will not be correct to hold that such ~~xxxx~~ prerogative was reserved. The Indian Court Fees Act relates to proceedings in Court. In the case of Civil Suits no such prerogative is reserved for Government. It is expressly provided in the Civil Procedure Code that suits can be filed by or against Government. So far as Criminal Proceedings are concerned, it is also provided that no person can be punished for an offence unless he is convicted by a Criminal Court. No exemption from proceedings in Courts has been granted in favour of Government. The Indian Court Fees Act applied to such proceedings and has been rightly held as not exempting Government (see I.L.R. 25 Mad. 457 at p. 457). This view is not in way shaken by the Privy Council decision in 49 Bom. L.R. 357. No amendment of the Act as suggested is desirable or necessary.

2. The difficulty experienced by the Police Prosecutor may be brought to the notice of the High Court and Home Department may move it to amend its circular enabling Police Prosecutors to get copies of judgments free of cost.

O.C. Sd/-
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Remembrancer of Legal Affairs.

U.R. to H.D. No. 4383, dated the 17th March, 1951.

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